

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

MEDPOINTE HEALTHCARE INC.,

Plaintiff,

v.

APOTEX INC. and APOTEX CORP.,

Defendants.

C.A. No. 06-164-SLR

CLAIM CONSTRUCTION ORDER

After considering the submissions of the parties and hearing oral argument on the matter, IT IS HEREBY ORDERED this _____ day of _____, 2008 that the Court construes the disputed claim limitations of the patent in suit as follows:

U.S. Pat. No. 5,164,194

1. Claims 4, 5, 7, 8 and 9: "irritation or disorders of the nose and eye" means "Rhinitis and/or conjunctivitis, including seasonal allergic rhinitis and vasomotor rhinitis. Symptoms of rhinitis include itching (also known as "pruritus"), sneezing, increased secretions (also known as "rhinorrhea"), and congestion."
2. Claims 4, 5, 7, 8 and 9: "applying directly to nasal tissues or to the conjunctival sac of the eyes" means "Topical application to the nose or to the conjunctival sac of the eyes. Excludes oral and parenteral applications."
3. Claims 4, 5, 7, 8 and 9: "azelastine and its physiologically acceptable salts" means "Azelastine and salts of azelastine that are physiologically safe, effective, and tolerable, such as azelastine hydrochloride."
4. Claims 4, 5, 7, 8 and 9: "a medicament" means "A product that includes a medicinal substance that has acceptable safety, efficacy, and tolerability for use in humans."
5. Claim 4: "the medicament contains 0.003 to 0.5% (weight/weight) of azelastine or an amount of a physiologically acceptable salt of azelastine which contains 0.003 to 0.5% (weight/weight) azelastine" means "The medicament contains 0.003 to 0.5% (weight/weight) of azelastine or an amount of a physiologically acceptable salt of

azelastine in which the weight of azelastine base is 0.003 to 0.5% of the weight of the medicament. Includes a 0.0033 to 0.55% (weight/volume) aqueous solution of azelastine hydrochloride."

6. Claim 7: "aqueous solution" should be given its ordinary meaning using the definitions of "aqueous" and "solution. "
7. Claim 8: "solution" should be given its ordinary meaning.
8. Claim 9: "applied by spraying" means "Delivering a fixed volume (typically, 50 to 150 microliters) of an aqueous solution to nasal tissues by aerosolizing that solution into a fine mist (typically with the size of most droplets falling in the range of 10 to 250 micrometers) targeted to those tissues. Excludes application to the eye and excludes application of drops to the nose."

Sue L. Robinson
United States District Judge